

1 WRIGHT, FINLAY & ZAK, LLP  
2 Robin Prema Wright, Esq.  
3 Nevada Bar No. 009296  
4 4665 MacArthur Court, Suite 280  
5 Newport Beach, CA 92660  
6 (949) 477-5050; Fax: (949) 477-9200

7 WRIGHT, FINLAY & ZAK, LLP  
8 Donna M. Osborn, Esq.  
9 Nevada Bar No. 006527  
10 5532 South Fort Apache Road, Suite 110  
11 Las Vegas, NV 89148  
12 (702) 475-7964; Fax: (702) 946-1345  
13 [dosborn@wrightlegal.net](mailto:dosborn@wrightlegal.net)

14 *Attorneys for Defendants.*

15 *National Default Servicing Corporation, Select Portfolio Servicing, Inc. fka*  
16 *Fairbanks Capital Corporation, DLJ Mortgage Capital, Inc. and*  
17 *Mortgage Electronic Registration Systems, Inc.*

18 UNITED STATES DISTRICT COURT

19 DISTRICT OF NEVADA

20 S. BURKE SMITH

21 Case No.: 3:10-cv-00553

22 Plaintiff,  
23 vs.

24 STIPULATION AND ORDER FOR  
25 DISMISSAL OF CASE AND RELEASE  
26 OF LIS PENDENS

27 HOME123 CORPORATION, a California  
28 Corporation, FIRST AMERICAN TITLE  
INSURANCE COMPANY; MORTGAGE  
ELECTRONIC REGISTRATION SYSTEMS,  
INC.; NEW CENTURY MORTGAGE  
CORPORATION, NATIONAL DEFAULT  
SERVICING CORPORATION, NATIONAL  
CITY MORTGAGE; SELECT PORTFOLIO  
SERVICING, INC. fka FAIRBANKS CAPITAL  
CORPORATION; DLJ MORTGAGE CAPITAL,  
INC., LPS TITLE COMPANY-NEVADA;  
WESTERN NEVADA TITLE COMPANY;  
RHONDA L. JOHNSON, individually; and  
DOES 1-25 CORPORATIONS, DOES and ROES  
1-25 individuals, Partnerships, or anyone claiming  
any interest to the property described in the  
action.

Defendants.

1 The parties hereby having reached an agreement and for good cause appearing;

2 WHEREAS, on April 26, 2011, Plaintiff, S. BURKE SMITH, filed for bankruptcy  
3 relief under title 11 of the United States Bankruptcy Code, Chapter 7 as case no BK-N-11-  
4 51388-btb. Jeri Coppa-Knudson was appointed as S. Burke Smith's chapter 7 trustee.  
5 Pursuant 11 U.S.C. § 541, this claim and cause of action became property of the Smith  
6 Bankruptcy Estate and Jeri Coppa-Knudson became the real party in interest in place of S.  
7 Burk Smith in this matter.

8 WHEREAS, the parties entered into an Agreement and filed a Motion to Approve the  
9 settlement with the bankruptcy court. On September 6, 2011 the Bankruptcy Court entered an  
10 Order approving the terms of the settlement between the parties.

11 Pursuant to the terms of the settlement, the parties agree and stipulate as follows:

12  
13 IT IS HEREBY STIPULATED between The Bankruptcy Estate of Plaintiff, B. Burke  
14 Smith, by and through his Chapter 7 Bankruptcy Trustee, Jeri Coppa-Knudson and Defendants  
15 National Default Servicing Corporation, Select Portfolio Servicing, Inc. fka Fairbanks Capital  
16 Corporation, DLJ Mortgage Capital, Inc. and Mortgage Electronic Registration Systems, Inc.,  
17 hereinafter collectively referred to as ("Defendants"), by and through their counsel of record,  
18 Donna M. Osborn, Esq. of WRIGHT, FINLAY & ZAK, LLP, that the case shall be dismissed as  
19 to all Defendants with prejudice.

20 IT IS FURTHER STIPULATED that the Lis Pendens recorded on July 9, 2010 as  
21 Document Number 415248 with the Churchill County Recorder's office should be expunged  
22 concerning the real property commonly known as 1269 Goldeneye, Fallon, Nevada 89406, more  
23 particularly described as follows:

24 APN: 001 722 17  
25 LOT 7 AS SHOWN ON THE MAP OF MALLARD ESTATES SUBDIVISION  
26 UNIT NO. 2, RECORDED JULY 28, 1999 UNDER DOCUMENT NO.  
27 323707, OFFICIAL RECORDS, CHURCHILL COUNTY, NEVADA.

28

1 IT IS FURTHER STIPULATED between the parties that each side shall bear their own  
2 fees and costs.

3 Submitted by:

4 WRIGHT FINLAY & ZAK, LLP

5   
6 Donna M. Osborn, Esq.  
7 Nevada Bar No. 006527  
8 5532 South Fort Apache Road, Suite 110  
9 Las Vegas, NV 89148  
10 Attorneys for Defendants,  
11 National Default Servicing Corporation,  
12 Select Portfolio Servicing, Inc. fka  
13 Fairbanks Capital Corporation, DLJ Mortgage  
14 Capital, Inc. and Mortgage Electronic Registration Systems, Inc.

Approved by

Chapter 7 Trustee of S. Burke Smith  
Bankruptcy Estate

  
Jen Coppa-Knudson  
3495 Lakeside Drive  
PMB #62  
Reno, NV 89509-4841  
Chapter 7 Trustee of the S. Burke Smith  
Bankruptcy Estate, Plaintiff

14 **ORDER**

15 PURSUANT to the Stipulation above and for good cause appearing:

16 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Complaint is  
17 hereby dismissed with prejudice as to Defendants, National Default Servicing Corporation,  
18 Select Portfolio Servicing, Inc. fka Fairbanks Capital Corporation, DLJ Mortgage Capital, Inc.  
19 and Mortgage Electronic Registration Systems, Inc. and all other Defendants.

20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Lis Pendens  
21 recorded on July 9, 2010 as Document Number 415248 with the Churchill County Recorder's  
22 office is hereby cancelled and expunged concerning the real property commonly known as 1269  
23 Goldeneye, Fallon, Nevada 89406, more particularly described as follows:

24 APN: 001 722 17

25 LOT 7 AS SHOWN ON THE MAP OF MALLARD ESTATES SUBDIVISION  
26 UNIT NO. 2, RECORDED JULY 28, 1999 UNDER DOCUMENT NO.  
27 323707, OFFICIAL RECORDS, CHURCHILL COUNTY, NEVADA.

1 and hereby has no further force or effect from this day forward.

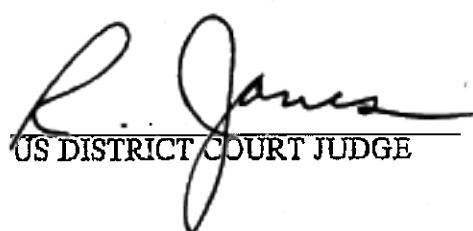
2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to N.R.S.  
3 14.015(5), that any party may record a copy of this order (or appropriate notice) cancelling the  
4 Lis Pendens with the Churchill County Recorder's Office.

5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each side is to bear  
6 their own fees and costs.

7 IT IS FURTHER ORDERED ADJUDGED AND DECREED that this case is hereby  
8 closed.

9  
10 IT IS SO ORDERED.

11  
12 Dated: October 27, 2011

  
R. Jones  
US DISTRICT COURT JUDGE

13  
14  
15 RESPECTFULLY SUBMITTED BY:

16  
17 WRIGHT, FINLAY & ZAK, LLP

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Donna M. Osborn, Esq.  
Nevada Bar No. 006527  
5532 South Fort Apache Road, Suite 110  
Las Vegas, NV 89148  
Attorneys for Defendants,  
National Default Servicing Corporation,  
Select Portfolio Servicing, Inc. fka Fairbanks  
Capital Corporation, DLJ Mortgage Capital, Inc  
and Mortgage Electronic Registration Systems, Inc.

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the \_\_\_\_ day of October, 2011, and pursuant to F.R.C.P. Rule 5(b), I served via CM/ECF a true and correct copy of the foregoing **STIPULATION AND ORDER OF DISMISSAL AND RELEASE OF LIS PENDENS** to all parties and counsel as identified on the Court-generated Notice of Electronic Filing to:

Jeri Coppa-Knudson  
3495 Lakeshore Drive  
PMB #62  
Reno Nevada 89509-4841  
Chapter 7 Trustee of the  
S. Burke Smith Bankruptcy Estate

/s/ Erica Baker  
An Employee of WRIGHT, FINLAY & ZAK, LLP